



Dennis J. Duffin
Director

The Commonwealth of Massachusetts

*Office of
Campaign & Political Finance*

*One Ashburton Place, Boston 02108
727-8352*

AO-13

June 6, 1986
AO-86-13

Dermot Meagher, Esquire
First Assistant Bar Counsel
Office of the Bar Counsel
Board of Bar Overseers of
the Supreme Judicial Court
Eleven Beacon Street
Boston, MA 02108

Dear Mr. Meagher:

This is in response to your recent request for an advisory opinion concerning the application of G.L. c. 55, the campaign finance law, to the staff of the Office of the Bar Counsel of the Board of Bar Overseers.

You state that the Board of Bar Overseers was created by the Supreme Judicial Court pursuant to its authority to supervise attorneys under S.J.C. rule 4:01. Under rules promulgated by the Supreme Judicial Court, the Board, with the Court's approval, is authorized to appoint a Bar Counsel. The Bar Counsel, in turn, employs Assistant Bar Counsel with the approval of the Board. The budget of the Board of Bar Overseers and the Office of the Bar Counsel is funded exclusively from the annual registration fees paid by attorneys licensed to practice law in the Commonwealth. Payment of these fees is compulsory for any attorney wishing to maintain an active status in the Commonwealth. The amount of the fee and the procedures governing the registration process are determined by the Supreme Judicial Court. Your staff is not eligible to participate in the Commonwealth employee pension fund or insurance programs and is not subject to Commonwealth rules regulating vacation or sick leave. Hiring is under the control of the Bar Counsel, the Board and the Supreme Judicial Court. Bar Counsel and Assistant Bar Counsel can be removed only by the Supreme Judicial Court but file annual statements of financial interest with the State Ethics Commission. Neither the Legislature nor the Governor have direct authority over the Board or the Office of the Bar Counsel.

Your specific inquiry is whether employees of the Board of Bar Overseers are "person(s) employed for compensation...by the commonwealth or any county, city or town..." and therefore subject to restrictions on political fundraising activity, as contained in section 13 of chapter 55.

Section 13 of Chapter 55, which states in relevant part, "No person employed for compensation, other than an elected officer, by the common-

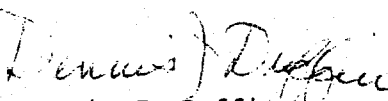
Mr. Meagher
Page 2
June 6, 1986

wealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever,..." has two primary objectives. It is designed to ensure that public employees do not use their position in public service for any kind of political benefit. It is also intended to protect public employees from unlawful political pressures.

In my opinion, the employees of the Board of Bar Counsel are persons employed for compensation by the Commonwealth, and therefore subject to Section 13. While the funds used to compensate employees of the Board are not appropriated, they are derived through the imposition of fees by the Supreme Judicial Court of the Commonwealth. Bar Counsel and Assistant Bar Counsel serve at the pleasure of the Supreme Judicial Court. The purpose and function of the Board of Bar Overseers, as an instrumentality of the Supreme Judicial Court, is clearly of a public nature. All employees of the Supreme Judicial court are persons employed for compensation and therefore subject to Section 13. I believe it would be an aberration of the important purposes of Section 13, if the fundraising restriction were not applicable to the employees of the Board of Bar Overseers.

The particular employment circumstances of the staff of the Board, coupled with the intent of the statutory provisions, compels me to conclude that the staff of the Bar Counsel are subject to Section 13 of Chapter 55.

Very truly yours,


Dennis J. Duffin
Director

DJD/bva